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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/757,146

01/14/2004

Dwight D. Smith

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7590 09/25/2007
Michael J. Aronoff
Tyco Technology Resources
Suite 140
4550 New Linden Hill Road
Wilmington, DE 19808

EXAMINER

TORRES RUIZ, JOHALI ALEJANDRA

ART UNIT	PAPER NUMBER
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2838

MAIL DATE	DELIVERY MODE
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09/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/757,146	Applicant(s) SMITH, DWIGHT D.	
	Examiner Johali A. Torres Ruiz	Art Unit 2838	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/11/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/14/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office action has been issued in response to the amendment filed on June 11, 2007. Claims 1-23 are pending. Applicant's arguments have been carefully and respectfully considered. Rejections have been maintained where arguments were not persuasive.

Claim Objections

2. Claim 1 is objected to because of the following informalities: spelling error on line 5 it reads though when it should read through. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. (U.S. Patent Number 5,262,710), in view of Slipy et al. (U.S. Patent Number 5,955,700).

5. Claim 1: Taylor teaches a housing (106) having a battery (420) receiving cavity, said cavity being profiled to receive at least a battery therein (Fig. 5); electrodes (224) for contacting contacts on the battery (420) (Col.9, Lines 52-54) for charging the battery

(Col.9, lines 27-31); a gripping member (280 and 290) movable between a locked (386 and 392) and unlocked (498 and 504) position, for gripping a battery placed within said cavity (Col.10, lines 27-32). It does not explicitly teach said housing comprising an opening through said housing and into said cavity, nor that the gripping member is movable transversely into and out of said housing opening. Slipy teaches a housing (302) having a battery (112) receiving cavity (128) said housing (302) comprising an opening through said housing (302) and into said cavity (128) (Col.5, Lines 20-24), positioning the opening toward the center of the housing would mean positioning it on the battery receiving cavity which is toward the center of said housing (302) (Fig.1). Slipy teaches a gripping member (106) is movable transversely into and out of said housing opening (Col.5, Lines 17-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have had a housing comprising an opening through said housing and into a battery receiving cavity and a gripping member movable transversely into and out of said housing opening in Taylor as taught in Slipy because it is known in the art as an expected successful configuration of gripping member and battery housing.

6. Claim 2: Taylor and Slipy teach the limitations of claim 1 as discussed above. Slipy teaches a gripping member (208) is moved by a cam assembly (106). It teaches a cam assembly provides for a strong attachment and simple assembly (Col.1, Lines 29-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have had a cam assembly move the gripper member in Taylor as taught in Slipy to have obtained the above advantage.

7. Claim 3: Taylor and Slipy teach the limitations of claim 2 as discussed above.

Taylor teaches a gripping member is comprised of a gripper portion (280 and 290) attached to an insert (176) (Col.7, Lines 29-32 and 50-53).

8. Claim 4: Taylor and Slipy teach the limitations of claim 3 as discussed above. It does not explicitly teach a cam assembly comprised of a rotatable cam which operates within a follower groove in an insert. Slipy teaches a cam assembly (106) comprised of a rotatable cam (216) (Col.3, Lines 47-49), which operates within a follower groove (space formed by gripper 208 on element 206) in an insert (118) (Col.4, Lines 32-34). It teaches a cam assembly provides for a strong attachment and simple assembly (Col.1, Lines 29-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have had a cam assembly comprised of a rotatable cam which operates within a follower groove in an insert in Taylor as taught in Slipy to have obtained the above advantage.

9. Claim 5: Taylor and Slipy teach the limitations of claim 3 as discussed above.

Slipy teaches wherein said gripper member (208) is a rubber-like material (Col.3, Lines 9-11) and is integrally connected to a plastic insert (212 or 214) (Col.2, Lines 56-59 and 63-67) (Fig.2). The fact that they are not molded together does not impart distinctive structural characteristics to the final product. It teaches the gripper member and insert are made like this to be formed by a durable material (Col.3, Lines 9-11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have had a gripper member made of a rubber-like material and integrally connected to a plastic insert in Taylor as taught in Slipy to have obtained the above advantage.

10. Claim 6: **Taylor and Slipy teach the limitations of claim 5 as discussed above.** Taylor teaches wherein said gripper member is substantially U-shaped (Fig.4), with leg portions (296 and 302) of the U flanking said insert (176) (Fig.2), and the closed end (124) of the U providing the gripping function (Col.9, lines 43-50).

11. Claim 7: **Taylor and Slipy teach the limitations of claim 6 as discussed above.** Taylor teaches wherein the leg portions (296 and 302) of the gripper member are fixed to the housing portion (Col.7, Lines 26-29 and 46-49) and the movement of a spring (310) stretches the remainder of the gripper member (280 and 290) (Col.8, Lines 29-39). It does not explicitly teach wherein the movement of a cam stretches the remainder of the gripper member. Slipy teaches a gripping member (208) is moved by a cam assembly (106). It teaches a cam assembly provides for a strong attachment and simple assembly (Col.1, Lines 29-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have had a cam assembly instead of a spring stretched the remainder of the gripper member in Taylor as taught in Slipy to have obtained the above advantage.

12. Claim 8: Taylor and Slipy teach the limitations of claim 4 as discussed above. Slipy teaches wherein said rotatable cam (216) and said follower groove (space formed by gripper 208 on element 206) are contoured for a nested position when in the unlocked position (Fig. 4).

13. Claim 9: Taylor and Slipy teach the limitations of claim 4 as discussed above. Slipy teaches said rotatable cam (216) (Col.3, Lines 47-49) and said follower groove

(space formed by gripper 208 on element 206) are contoured for a detented position when in the locked position (Fig. 6).

14. Claim 10: Taylor and Slipy teach the limitations of claim 1 as discussed above. Taylor teaches a battery receiving battery profiled to receive a battery alone (Fig.5).

15. Claim 11: Taylor and Slipy teach the limitations of claim 10 as discussed above. Taylor teaches guides (362 and 368) along the insertion axis (Fig.3) of the cavity for holding the battery (420) alone (Col.9, Lines 39-42).

16. Claim 12: Taylor and Slipy teach the limitations of claim 11 as discussed above. Slipy teaches a battery receiving cavity (128) including guide grooves along the insertion axis of the cavity (Fig.1). It would have been obvious to one of ordinary skill in the

17. Claim 13 is rejected for substantially the same reasons as claims 1 and 10 above.

18. Claim 14: Taylor and Slipy teach the limitations of claim 13 as discussed above. Claim 14 is rejected for substantially the same reasons as claim 3 above.

19. Claim 15: Taylor and Slipy teach the limitations of claim 14 as discussed above. Claim 15 is rejected for substantially the same reasons as claim 4 above.

20. Claim 16: Taylor and Slipy teach the limitations of claim 14 as discussed above. Claim 16 is rejected for substantially the same reasons as claim 5 above.

21. Claim 17: Taylor and Slipy teach the limitations of claim 16 as discussed above. Claim 17 is rejected for substantially the same reasons as claim 6 above.

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22. Claim 18: Taylor and Slipy teach the limitations of claim 17 as discussed above.

Claim 18 is rejected for substantially the same reasons as claim 7 above.

23. Claim 19: Taylor and Slipy teach the limitations of claim 16 as discussed above.

Claim 19 is rejected for substantially the same reasons as claim 8 above.

24. Claim 20: Taylor and Slipy teach the limitations of claim 16 as discussed above.

Claim 20 is rejected for substantially the same reasons as claim 9 above.

25. Claim 21: Taylor and Slipy teach the limitations of claim 15 as discussed above.

Slipy teaches a cam member (216) is operated by a shaft (204), which is connected to said cam member (216) (Col.2, lines 56-59). It does not explicitly teach that it extends through to an exterior of a housing. The rearrangement of parts has been held to support a *prima facie* case of obviousness. In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (Claims to a hydraulic power press which read on the prior art except with regard to the position of the starting switch were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device.)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have had the shaft in Slipy extend through to an exterior of a housing because the position of the shaft would not have modified the operation of the cam. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have had a cam operated by a shaft which is connected to said cam, and extend through to an exterior of a housing in Taylor as taught in Slipy because it is known in the art as an expected successful configuration of cam.

26. Claim 22: Taylor and Slipy teach the limitations of claim 13 as discussed above. Claim 22 is rejected for substantially the same reasons as claim 11 above.

27. Claim 23: Taylor and Slipy teach the limitations of claim 22 as discussed above. Claim 23 is rejected for substantially the same reasons as claim 12 above.

Response to Arguments

28. Applicant's arguments filed June 11, 2007 have been fully considered but they are not persuasive. In response to applicant's argument that Slipy shows a battery compartment (128) which is remote from any area where latching mechanism (106) exists and thus the latching mechanism (106) does not move transversely into and out of a opening which communicates with a battery receiving cavity (128). Slipy teaches a housing (302) having a battery (112) receiving cavity (128) said housing comprising an opening through said housing (302) and into said cavity (128) (Col.5, Lines 20-24), positioning the opening toward the center of the housing would mean positioning it on the battery receiving cavity which is toward the center of said housing (302) (Fig.1). Slipy teaches a gripping member (106) is movable transversely into and out of said housing opening (Col.5, Lines 17-20).

29. In response to applicant's argument that Slipy has nothing to do with moving between a locked and unlocked position for gripping the battery placed within the cavity but rather holds door cover (102). Taylor teaches a gripping member (280 and 290) movable between a locked (386 and 392) and unlocked (498 and 504) position, for gripping a battery placed within a cavity (Col.10, lines 27-32). Slipy was used to show a

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gripping member movable transversely into and out of a housing opening, the rejection is based on the combination of these references.

30. In response to applicant's argument that the Slipy cam is used to urge the door (102) open, not close. Slipy teaches the cam is used to urge the door (102) closed (Col.4, Lines 42-45).

31. In response to applicant's argument that nothing in Taylor latches the battery in place. Taylor teaches a gripping member (280 and 290) movable between a locked (386 and 392) and unlocked (498 and 504) position, for gripping a battery placed within a cavity (Col.10, lines 27-32).

32. In response to applicant's argument that Slipy does not have a cam operated gripping member. Slipy teaches a cam operated gripping member (106) (Col.4, Lines 35-37).

33. In response to applicant's argument that there are no rubber like materials in Slipy. Slipy teaches wherein said gripper member (208) is a rubber-like material (Col.3, Lines 9-11) and is integrally connected to a plastic insert (212 or 214) (Col.2, Lines 56-59 and 63-67) (Fig.2).

34. In response to applicant's argument that there is not a detented position in Slipy. Detent is a catch or lever that locks the movement of one part of a mechanism. Slipy teaches a rotatable cam (216) (Col.3, Lines 47-49) and said follower groove (space formed by gripper 208 on element 206) are contoured for a detented position when in the locked position (Fig. 6). When the follower groove gets lock to element 118 it locks the movement of the mechanism.

35. In response to applicant's argument that Taylor does not show a battery receiving cavity profiled to receive the battery connected to its handheld appliance. Taylor teaches a battery receiving battery profiled to receive a battery alone (Fig.5), the claim required one or the other.

36. In response to applicant's argument that the guides (362 and 368) in Taylor are on the same element as the gripping member. Claim 11 requires guides along the insertion axis for holding a battery, Taylor teaches guides (362 and 368) along the insertion axis (Fig.3) of the cavity for holding the battery (420) alone (Col.9, Lines 39-42).

37. In response to applicant's argument that Slipy does not teach a battery charger. Taylor teaches a battery charger (Abstract) the rejection is based on the combination of these references.

38. In response to applicant's argument that there claim 1 is not obvious as the teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Slipy teaches a housing (302) having a battery (112) receiving cavity (128) said housing (302) comprising an opening through said housing (302) and

into said cavity (128) (Col.5, Lines 20-24), positioning the opening toward the center of the housing would mean positioning it on the battery receiving cavity which is toward the center of said housing (302) (Fig.1). Slipy teaches a gripping member (106) is movable transversely into and out of said housing opening (Col.5, Lines 17-20). It teaches that with this latching mechanism detachment is less likely to occur when subject to a drop force (Col.5, Lines 2-7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have had a housing comprising an opening through said housing and into a battery receiving cavity and a gripping member movable transversely into and out of said housing opening in Taylor as taught in Slipy to have obtained the above advantage.

Conclusion

39. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johali A. Torres Ruiz whose telephone number is (571) 270-1262. The examiner can normally be reached on M- Alternating F 7:30am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Karl Easthom can be reached on (571) 272-1989. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JAT



BAO Q. VU
PRIMARY EXAMINER